

REMARKS

The examiner's dated June 6, 2008, has been received, and its contents carefully noted.

The rejection presented in Section 6 of the action is respectfully traversed, it is the opinion of undersigned that the use of the phrase in question should be considered acceptable and certainly does not create any indefiniteness. Clearly, any material deposited on a substrate will have a thickness and presumably if the claims had recited "deposit of a thickness" there would have been no objection. The term "selected" was employed to indicate to those skilled in the art that the substrate will be given a thickness suitable for the intended purpose. One seeking to practice this invention would, of course, attempt to obtain an optimal thickness. This will depend on a number of factors, including the specific deposition technique employed, the desire to provide a durable surface, and the somewhat contrasting desire to minimize the amount of material deposited.

It is not clear to undersigned why the use of the term selected would be considered to be a source of indefiniteness or would prevent an understanding of the scope of the invention.

It may be of interest to note that since 1976, nearly 1,000 patents have issued with claims that include the phrase "selected thickness".

Therefore, unless there is some specific reason to believe that the term "selected" prevents a clear understanding of the scope of the claims, it is requested that this objection be withdrawn.

In response to the objection presented in Section 7 of the action, claims 1 and 2 have been amended to clarify that the percentages referred to are by weight. Those skilled in the art would readily understand from the present specification that all percentages disclosed therein are by weight.

In this connection, reference is made to the description of Zircaloy 2 appearing at page 4, lines 25-28 of the present specification, and the cover page and page M 8.2.5 of a publication by the federal government that is submitted herewith. Particular attention is directed to the description in the publication of the composition of ZIRC 2 showing, in particular, that the weight percentages of tin, iron, chromium and nickel in the alloy are essentially identical to the percentages listed in the present specification. Thus, based on the knowledge in the prior art, those skilled in the art

would clearly understand that the percentage values presented in this application are by weight.

It is therefore requested that the objections to the claims be reconsidered and withdrawn.

The provisional double patenting rejection presented in Sections 8 and 9 of the action is noted. Since there are other issues to be resolved in this case and the related application has not yet issued as a patent, it is understood that this rejection can be dealt with after all of the other issues, in particularly the prior art rejections, in this case have been resolved.

The rejection presented in Sections 12 and 13 is respectfully traversed for the reason that the present invention, as now claimed, is not disclosed in or suggested by the applied reference, Winter.

All of the claims have now been amended to present a positive recitation of a cooking utensil or cooking appliance that comprises both a utensil or appliance body and a food contacting surface adhered to a surface of the body and constituting a cooking surface.

All that Winter discloses is an aluminum alloy strip provided with a Zircaloy surface. There is absolutely no disclosure in this reference that such a surface could possibly serve as a food cooking surface. In particular,

there is no disclosure in this reference that a surface of Zircaloy would be useful as a food cooking surface. By way of example, those skilled in the art would not be taught by the applied reference that such a surface would have the cleaning properties required for a food cooking surface.

It is understood that Zircaloy is used for a variety of purposes. However, none of the known purposes can be considered to correspond to the use of such an alloy as a food cooking surface, and there is no logical basis for an assertion that the known products are used for a purpose analogous to a food cooking surface of a kitchen utensil or cooking appliance.

In any event, claim 1 now positively recites a kitchen utensil or cooking appliance comprising a utensil or appliance body and a food contacting surface adhered to a surface of said body. This recitation corresponds to that appearing in claim 23, which was previously presented, and which has now been cancelled.

It is submitted that the recitation of "a utensil or appliance body" as a positively recited element of the claimed device cannot be ignored and must be interpreted according to its plain meaning, which is a body that is constructed and used for cooking.

Correspondingly, the combination of such a body and a food contacting surface adhered to a surface of that body represents a structure that is clearly not disclosed by Winter and for which no suggestion can be found in that reference.

Of course, anyone, whether skilled in the art or not, would understand that a body of a kitchen utensil or cooking appliance will have a certain form and certain thermal characteristics.

It is believed that, in view of the amendments made to the claims to include a positive recitation of a utensil or appliance body and a food contacting surface adhered to the body that the issue that must be addressed is not whether Zircaloy is capable of being used as a cooking surface, but rather whether it would be obvious to those skilled in the art to produce an appliance having a body and a cooking surface made of a specific alloy. Since it was not known in the art that an alloy having the composition defined in claim 1 could serve as an effective cooking surface, it must be concluded that the combination now defined in the claims is not obvious in view of the prior art.

Accordingly, it is requested that the prior art rejection be reconsidered and withdrawn, that the pending claims be allowed and that the application be found in allowable condition.

Appln. No. 10/539,442  
Amd. dated September 4, 2008  
Reply to Office Action of June 6, 2008

If the above amendment should not now place the application in condition for allowance, the Examiner is invited to call undersigned counsel to resolve any remaining issues.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant(s)

By /jmf/  
Jay M. Finkelstein  
Registration No. 21,082

JMF:smb  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
G:\BN\S\seb\Coudurier2\pto\2008-09-04- amendment.doc